

ASSEMBLY BILL

No. 1296

**Introduced by Assembly Members Morrow, Mazzoni, and
Strom-Martin**

(Coauthor: Senator Thompson)

February 28, 1997

An act to amend Section 831.7 of the Government Code,
relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 1296, as introduced, Morrow. Liability.

Existing law provides that neither public entities nor public employees are liable to any person who participates in a hazardous recreational activity. Existing law defines "hazardous recreational activities" for these purposes to include various activities.

This bill would revise the list of hazardous recreational activities to include skateboarding.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 831.7 of the Government Code
2 is amended to read:

3 831.7. (a) Neither a public entity nor a public
4 employee is liable to any person who participates in a
5 hazardous recreational activity, including any person
6 who assists the participant, or to any spectator who knew

1 or reasonably should have known that the hazardous
2 recreational activity created a substantial risk of injury to
3 himself or herself and was voluntarily in the place of risk,
4 or having the ability to do so failed to leave, for any
5 damage or injury to property or persons arising out of that
6 hazardous recreational activity.

7 (b) As used in this section, “hazardous recreational
8 activity” means a recreational activity conducted on
9 property of a public entity which creates a substantial (as
10 distinguished from a minor, trivial, or insignificant) risk
11 of injury to a participant or a spectator.

12 “Hazardous recreational activity” also means:

13 (1) Water contact activities, except diving, in places
14 where or at a time when lifeguards are not provided and
15 reasonable warning thereof has been given or the injured
16 party should reasonably have known that there was no
17 lifeguard provided at the time.

18 (2) Any form of diving into water from other than a
19 diving board or diving platform, or at any place or from
20 any structure where diving is prohibited and reasonable
21 warning thereof has been given.

22 (3) Animal riding, including equestrian competition,
23 archery, bicycle racing or jumping, mountain bicycling,
24 boating, cross-country and downhill skiing, hang gliding,
25 kayaking, motorized vehicle racing, off-road
26 motorcycling or four-wheel driving of any kind,
27 orienteering, pistol and rifle shooting, rock climbing,
28 rockteering, rodeo, spelunking, *skateboarding*, sky
29 diving, sport parachuting, paragliding, body contact
30 sports (i.e., sports in which it is reasonably foreseeable
31 that there will be rough bodily contact with one or more
32 participants), surfing, trampolining, tree climbing, tree
33 rope swinging, waterskiing, white water rafting, and
34 windsurfing. For the purposes of this subdivision,
35 “mountain bicycling” does not include riding a bicycle on
36 paved pathways, roadways, or sidewalks.

37 (c) Notwithstanding the provisions of subdivision (a),
38 this section does not limit liability which would otherwise
39 exist for any of the following:



1 (1) Failure of the public entity or employee to guard
2 or warn of a known dangerous condition or of another
3 hazardous recreational activity known to the public
4 entity or employee that is not reasonably assumed by the
5 participant as inherently a part of the hazardous
6 recreational activity out of which the damage or injury
7 arose.

8 (2) Damage or injury suffered in any case where
9 permission to participate in the hazardous recreational
10 activity was granted for a specific fee. For the purpose of
11 this paragraph, a “specific fee” does not include a fee or
12 consideration charged for a general purpose, such as a
13 general park admission charge, a vehicle entry or parking
14 fee, or an administrative or group use application or
15 permit fee, as distinguished from a specific fee charged
16 for participation in the specific hazardous recreational
17 activity out of which the damage or injury arose.

18 (3) Injury suffered to the extent proximately caused
19 by the negligent failure of the public entity or public
20 employee to properly construct or maintain in good
21 repair any structure, recreational equipment or
22 machinery, or substantial work of improvement utilized
23 in the hazardous recreational activity out of which the
24 damage or injury arose.

25 (4) Damage or injury suffered in any case where the
26 public entity or employee recklessly or with gross
27 negligence promoted the participation in or observance
28 of a hazardous recreational activity. For purposes of this
29 paragraph, promotional literature or a public
30 announcement or advertisement which merely describes
31 the available facilities and services on the property does
32 not in itself constitute a reckless or grossly negligent
33 promotion.

34 (5) An act of gross negligence by a public entity or a
35 public employee which is the proximate cause of the
36 injury.

37 Nothing in this subdivision creates a duty of care or
38 basis of liability for personal injury or for damage to
39 personal property.

1 (d) Nothing in this section shall limit the liability of an
2 independent concessionaire, or any person or
3 organization other than the public entity, whether or not
4 the person or organization has a contractual relationship
5 with the public entity to use the public property, for
6 injuries or damages suffered in any case as a result of the
7 operation of a hazardous recreational activity on public
8 property by the concessionaire, person, or organization.

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